

REMARKS

Applicant expresses appreciation to the Examiner for consideration of the subject patent application. Claims 10-20 were originally presented. Claims 10-20 have been cancelled and replaced with claims 21-31 which contain the same subject matter as previous claims 10-20 but in amended format.

This Response is in reply to the Office Action mailed March 17, 2008. Claims 21, 22, 30 were rejected. Claims 23-29 and 31 are objected to. Applicant thanks the Examiner for the allowable subject matter.

Claim 30 was objected to because of the informality that in line 15 “a horizontal axle” was recited. The horizontal axle has been changed to “the horizontal axle.” Applicant has examined this recitation and believes this is the first and only recitation of a horizontal axle in claim 30 and thus it is proper to introduce this element using the article “a”. If Applicant has incorrectly understood the requirement, Applicant requests further clarification.

Claim Rejections - 35 U.S.C. § 103

Claims 21, 22 and 30 (including independent claims 21 and 30) were rejected under 35 U.S.C. § 103 as being unpatentable over Chen ('833) in view of Chang ('175).

While the Chen device is used for a stepping exercise, Chen teaches a pair of linkages (312) that are attached to that is attached to a footpad arm and then to the moving arms 22. This means that as the footpads are moved by the user then the arms will be reciprocated with the user's feet. (See column 3, lines 7-11 of Chen.) The connection between the arms and the feet does not affect the twisting of the foot pedals and the Chen reference does make any reference to this connect affecting the foot movement. Instead, Chen uses two guide pillars (38 and 39) to press on the arcuate protrusion 18 of the device **below** the footpad and this enables the device to twist.

In contrast, the present invention claims “a pair of linkages each having joints disposed at each end of each linkage and attached individually to a footpad arm **and interfaced with the exerciser base at a point above the horizontal axle.**” The prior art of Chen does not show that the linkages attach to the exerciser base at a point **above the horizontal axle**. Instead, Chen

attaches the footpads to the arm handle 22 which does not affect the rotation of the device but only influences the reciprocation of the arm handles.

Particularly, the way that Chen rotates is by pressing the rods 30 and 39 ("named guide pillars) on the arcuate protrusion of the bottom support of the exercise machine. This means the Chen device twists in the opposite direction as compared to the present invention because the rods are pressed against the arcuate protrusion on the bottom of the device.

When Chen rotates, it will twist inwardly which is uncomfortable and ergonomically poor for the person exercising. In contrast, the present invention, as claimed, twists in an outward direction. This outward twisting motion simulation the sport of downhill snow skiing which is comfortable and enjoyable. Chen and Chang do not simulate a sporting movement but rather create an un-natural ankle movement that is uncomfortable to a user.

This uncomfortable movement is created because the pivot point is located at different location underneath the footpads. In contrast, the present invention creates a pivot point above the footpads.

The Office Action has further cited Chang as teaching a single upwardly extending vertical axle. However, Chang does not teach or suggest "a pair of linkages each having joints disposed at each end of each linkage and attached individually to a footpad arm and interfaced with the exerciser base at a point above the horizontal axle."

The Chen and Chang references, when combined, do not teach or suggest all of the elements of independent claims 21 and 30. Specifically, the Chen reference does not teach a pair of linkages attached to a footpad arm and interfaced with the exerciser base at a point above the horizontal axle, and the Chang reference does not overcome that deficiency.

The Office Action has asserted that it would be obvious to one of skill in the art to "utilize a vertical axle for supporting the rotative body", but this is not relevant to the important claim language that has been argued by the Applicant above.

CONCLUSION

In light of the above, Applicant respectfully submits that pending claims 21-31 are now in condition for allowance. Therefore, Applicant requests that the rejections and objections be withdrawn, and that the claims be allowed and passed to issue. If any concerns to the allowance of these claims remains after entry of this Amendment, the Examiner is strongly encouraged to call Steve M. Perry at (801) 566-6633 so that such matters may be resolved quickly.

Fees in the amount of \$60.00 will be submitted electronically pursuant to 37 C.F.R. § 1.17(a) (2), for a one month extension of time pursuant to 37 C.F.R. § 1.136.

The Commissioner is hereby authorized to charge any additional fee or to credit any overpayment in connection with this Amendment to Deposit Account No. 20-0100.

DATED this 17th day of July, 2008.

Respectfully submitted,

/Steve M. Perry/

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